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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,042	01/21/2004	Michael A. Krall	23 - 0704	4444

40158 7590 08/23/2005

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EXAMINER

PATEL, TAJASH D

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

# Office Action Summary

**Application No.**

10/762,042

**Applicant(s)**

KRALL, MICHAEL A.

**Examiner**

Tejash D. Patel

**Art Unit**

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/21/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5 and 8-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Vosatka (US 4,062,064). Vosatka discloses a sweatshirt (10), col. 1, lines 1-3 including a main portion having a front panel (11), a back panel, a neck opening and a pair of arm portions aligned with respective arm openings, with the front panel having a slit therein as shown in figure 2. Further, a pouch member having an opening is operationally coupled to the slit of the front panel with the pouch member being positioned to an interior portion of the front panel as shown in figure 1a. The opening of the pouch member has a zipper closure means (18). Furthermore, the opening of the pouch member is secured to an aligned with the slit in the front panel by stitching a perimeter edge of the pouch member encompassing the opening to a perimeter edge of the slit in the front panel as shown in figure 1a. Also, the pouch member includes a front portion (15) and a pouch back portion (16) such that the front and back portions are coupled to each other along a bottom edge and two side edges thereof as shown in figure 1. The front portion abuts the interior surface of the front panel while the back portion abuts the chest of the user when the garment is worn as shown in figure 1a.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vosatka in view of Bristor (US 5,222,259). Vosatka discloses the invention as set forth above except for showing indicia being positioned on the front panel.

Bristor discloses a sweatshirt (10) having indicia (22) being positioned on a front panel thereof as shown in figure 1.

It would have been obvious to one skilled in the art at the time the invention was made to provide the garment of Vosatka with indicia being positioned on the front panel as taught by Bristor as a matter of design choice.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vosatka in view of DeHart (US 6,397,395). Vosatka discloses the invention as set forth above except for showing a hood being coupled to the main portion.

DeHart discloses a garment having a hood being coupled to a main portion thereof as shown in figure 1.

It would have been obvious to one skilled in the art at the time the invention was made to provide the garment of Vosatka having a hood being coupled to a main portion as taught by DeHart so the wearer is protected from the elements or as required for a particular application thereof.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejash Patel whose telephone number is (571) 272-4993. The fax phone number for this group is (571) 273-8300.



**TEJASH PATEL  
PRIMARY EXAMINER**

August 18, 2005